

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

Watson Grinding and Manufacturing Co.

Debtor.

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Case No. 20-30967

Chapter 11

Expedited Hearing Requested

**EXPEDITED MOTION OF KMHJ, LTD. FOR ORDER DIRECTING
PROPERTY DAMAGE INSURANCE CARRIER TO ISSUE INSURANCE
CHECK SOLELY TO KMHJ, LTD. FOR PROPERTY DAMAGE TO WATSON
CAMPUS BUILDINGS 1 AND 3 WHICH ARE SOLELY OWNED BY KMHJ, LTD.**

EXPEDITED RELIEF HAS BEEN REQUESTED. A HEARING WILL BE CONDUCTED ON THIS MATTER ON MARCH 30, 2020 AT 9:00 A.M. IN COURTROOM 404, 4TH FLOOR, 515 RUSK STREET, HOUSTON, TEXAS 77002. IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT EXPEDITED CONSIDERATION IS NOT WARRANTED, YOU MUST EITHER APPEAR AT THE HEARING OR FILE A WRITTEN RESPONSE PRIOR TO THE HEARING. OTHERWISE, THE COURT MAY TREAT THE MOTION AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

RELIEF IS REQUESTED NOT LATER THAN MARCH 30, 2020.

Please note that on March 24, 2020, through the entry of General Order 2020-10, the Court invoked the Protocol for Emergency Public Health or Safety Conditions. The Order may be found at: https://www.txs.uscourts.gov/sites/txs/files/Bankruptcy%20General%20Order%202020-04%20Adoption%20of%20Contingency%20Plan_0.pdf

Electronic Appearances

It is anticipated that all persons will appear telephonically and also may appear via video at this hearing.

Audio Communication

Audio communication will be by use of the Court's regular dial-in number. The dial-in number is 1-832-917-1510. You will be responsible for your own long-distance charges. You will be asked to

key in the conference room number. Judge Isgur's conference room number is 954554.

Parties are encouraged to review the Court's procedures for telephonic appearances located at

<https://www.txs.uscourts.gov/sites/txs/files/Court%20Procedures%20February%2012%2C%202020.pdf>

Attorneys and parties-in-interest wishing to participate in the hearing must connect to the hearing by audio communication. Any person wishing to observe the proceeding may also dial in to the audio conference dial-in number.

Each person who speaks at the electronic hearing should be prepared to restate that person's name each time that the person speaks in order to assist any transcriber of the audio recording.

Video Communication

Parties may participate in electronic hearings by use of an internet connection. The internet site is www.join.me. Persons connecting by mobile device will need to download the free join.me application.

Once connected to www.join.me, a participant must select "Join a Meeting". The code for joining this hearing before Judge Isgur is "judgeisgur". The next screen will have a place for the participant's name in the lower left corner. Please complete the name and click "Notify".

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

KMHJ, Ltd. ("KMJH") files this Expedited Motion for Order Directing Property Damage Insurance Carrier to Issue Insurance Check Solely to KMJH, Ltd. for Property Damage to Watson Campus Buildings 1 and 3 Owned by KMJH, and in support thereof respectfully shows the Court as follows:

SUMMARY

1. KMJH has leased Buildings 1 and 3 to Watson Grinding and Manufacturing Co., Inc. ("WGM") since each building was constructed in 2000 and 2007, respectively. The current Lease, effective January 1, 2019, is a ten-year lease with monthly payments of \$22,000. KMJH is the loss payee for Buildings 1 and 3 under the property damage coverage portion ("Property

Insurance”) of the Commercial Insurance Policy issued to WGM by United Fire Group (“United Fire”), Policy No. 85319121 (the “Policy”). In connection with the January 24, 2020, explosion in a different building at a different part of the Watson Campus, Buildings 1 and 3 owned by KMHJ were significantly damaged. On March 19, 2020, United Fire notified KMHJ that it is now ready to make payment to KMHJ under the Property Insurance portion of the Policy. However, United Fire advised that they will not issue any checks to KMHJ (or other loss payee owners of other buildings on the Watson Campus) until this Court issues an Order directing how the insurance check(s) should be made payable to the building owner loss payees (there are eight buildings covered by the Property Insurance portion of the Policy). United Fire advised that the property damage payment for Building 1 will be \$1.2 million, and the property damage payment for Building 3 will be \$1 million. KMHJ is entitled to those payments as the actual and effective loss payee under the Policy. In return for the expedited payment of these property damage insurance payments to KMHJ, and provided no portion of such payments are withheld or recovered from KMHJ, KMHJ will waive: (i) any claim against WGM and its bankruptcy estate for post-petition rent from March 1, 2020 to August 31, 2020, and (ii) rejection damages for any rejection of the ten-year Commercial Lease Agreement effective January 1, 2019 between KMHJ, as Landlord, and WGM, as Tenant (the “Lease”), provided any such rejection occurs by August 31, 2020.

2. Expedited relief is warranted because the Landlord has not received any rent payment since February 1, 2020, and the majority of the limited partners at this time have no income other than the rent payments (or in lieu thereof, the Property Insurance proceeds) as they have recently lost their other employment income sources due to the shut-down of businesses and events across the United States as a result of the COVID-19 crisis.

KMHJ AND BUILDINGS 1 AND 3

3. WGM was established in 1960 by Mr. James Watson in his garage at his home in Spring Branch. James and Betty Sue Watson are the parents of John Watson, the current President of WGM. James Watson died in 2014. Betty Sue Watson is still living.

4. In approximately 1972, James Watson moved WGM to land he bought at 4606 Steffani Lane, which is still part of the Watson Campus.

5. John Watson and his first wife, Melva, had four children, three daughters and one son: Kelly (1983), Melany (1984), Hailey (1986), and John II (1989). John and Melva Watson divorced in 1993.

6. In 1992, the children's maternal grandmother died and left \$10,000 to each of her four grandchildren. The children's father, John Watson, created investment accounts for his four minor children at Shearson Lehman Brothers. The children's paternal grandfather helped to manage the minor grandchildren's individual accounts for years, and the grandfather added additional "gifts" to the accounts annually in amounts not to exceed the annual allowable gift amount per the US Tax Code.

7. On June 30, 2000, John Watson created KMHJ. From the minor children's accounts at Shearson Lehman Brothers each minor child contributed \$175,000 to purchase one-fourth of the total limited partner portion of KMHJ. John Watson was the original General Partner with a 1% ownership share in the limited partnership, and he similarly purchased his 1% general partner interest in KMHJ.

8. On July 7, 2000, KMHJ purchased the land at 4525 Gessner from James and Betty Sue Watson. KMHJ constructed, with its own funds, a manufacturing and office structure (now known as "Building 1") and rented the building to WGM.

9. In 2007, KMHJ, again using its own funds, constructed a new manufacturing facility at 4606 Steffani, known as building “F” on Replat 1 of that tract of land. Building “F” at 4606 Steffani is known as Building 3 for loss payee KMHJ in the United Fire Property Insurance portion of the Policy.

10. In 2016, when John Watson’s eldest daughter, Kelly Watson, was 33-years-old, she created KMHJ Management Company, LLC, a Texas limited liability company, with Kelly Watson as the sole member/owner (“KMHJ Management”). In the fall of 2016, KMHJ Management purchased the 1% general partner interest from John Watson. Hence, since the fall of 2016, John Watson has had no interest whatsoever in KMHJ, the Landlord to WGM as to Buildings 1 and 3.¹

11. A triple net five-year lease as to Buildings 1 and 3 between KMHJ, as Landlord, and WGM, as Tenant, commenced effective January 1, 2014; and the current triple net ten-year Lease commenced effective January 1, 2019. The rent due under the Lease was paid current through the February 1, 2020 payment as of the date this bankruptcy case was filed on February 6, 2020; however, WGM was in default at the time of the filing for failure to pay the 2019 ad valorem taxes which were due to be paid by WGM no later than January 31, 2020.

¹ As a matter of providing the Court with general background facts regarding eldest daughter Kelly Watson’s former employment with WGM, which is wholly unrelated to the creation of KMHJ when Kelly was a minor child, the following history is provided. In 2011, at approximately 28-years-old, following a successful career in the media industry and completion of a master’s degree from Texas Tech University, Kelly was hired by WGM as VP of Marketing. In the spring of 2016, Kelly was promoted at WGM to VP of Sales & Marketing. In March 2017, for a period of approximately 245 days, Kelly was given the title at WGM of President, however, her duties did not change, and she was not given any additional authority at WGM. In early November, 2017, Kelly’s former title was restored to match her job duties of VP of Sales & Marketing. At that time, Kelly resigned her position and employment with WGM, and has had no further employment or positions of any kind with WGM.

THE POLICY

12. A copy of the Policy is attached as **Exhibit A**. It is 314 pages. The Commercial Property Coverage portion of the Policy begins at page 79 of 314, and specifies a total of \$6.225 million in coverage for eight buildings, including Buildings 1 and 3.

13. Attached as **Exhibit B** are the Policy Declarations, which lists KMHJ as loss payee for Building 3; and in error uses the term “first mortgagee” (effectively loss payee) on Building 1. KMHJ as the sole owner of Buildings 1 and 3 is entitled to the full property damage payments from United Fire attributable to Buildings 1 and 3 from the Property Insurance portion of the Policy.

UNITED FIRE IS READY TO PAY PROPERTY INSURANCE AMOUNTS TO THE OWNERS OF THE EIGHT BUILDINGS

14. Attached as **Exhibit C** is the March 19, 2020 email from the attorney for United Fire (Mike Dodson of Strong Pipkin Bissell & Ledyard, LLP). In his email Mr. Dodson confirms that United Fire is ready to make the property damage payments as to the eight buildings on the WGM campus under the Property Insurance portion of the Policy. However, as indicated in Attorney Dodson’s email, the property damages checks will not be written and issued until United Fire receives a copy of an Order from this Court directing how each property damage insurance check should be made payable as to each of the eight buildings to which the Property Insurance applies. The email also specifies that the property damage payments which United Fire intends to pay for Building 1 and Building 3 are \$1.2 million and \$1 million, respectively.²

15. The property damage payments on the eight buildings from the Property Insurance portion of the Policy do not in any way diminish the amount of insurance coverage available to Debtor WGM and its estate under other portions of the Policy. See **Exhibit D** attached which is another email issued on March 24, 2020 by the attorney for United Fire, Mike Dodson.

² A typo on the address for Building 1 exists in the Exhibit C email where the address is incorrectly stated as being 4245 Gessner. The correct address number is 4525 Gessner.

16. The Property Insurance portion of the Policy only pertains to the eight building structures (i.e., walls, roof, doors, windows, etc..) on the WGM campus. The contemplated property damage insurance payments do not include payment for any of the business personal property purchased by and owned by Debtor WGM (whether or not affixed to the building structures) such as the manufacturing equipment, tanks, etc. Insurance pertaining to the equipment for manufacturing and other business personal property owned by WGM is covered by a separate and distinct part of the Policy, the Business Personal Property coverage, referred to therein as “BLANKET #3. That part of the Policy provides \$11.3 million of coverage to WGM for its manufacturing equipment and other business personal property. See page 80 of Exhibit A, and page 4 of Exhibit B hereto where “BLANKET #3” is shown as “YOUR BUSINESS PERSONAL PROPERTY.” See also **Exhibit E** attached which is another email issued on March 25, 2020 by the attorney for United Fire, Mike Dodson.

**KMHJ OFFERS VALUABLE CONSIDERATION FOR
PROMPT RECEIPT OF PROPERTY INSURANCE PROCEEDS**

17. In return for the expedited, prompt, payment to KMHJ of the amounts of Property Insurance portion of the Policy for Buildings 1 and 3 (total of \$2.2 million), and provided no portion of such payments are withheld or recovered from KMHJ, KMHJ will waive: (i) any claim against WGM and its bankruptcy estate for post-petition rent from March 1, 2020 through August 31, 2020, and (ii) rejection damages for any rejection of the Lease, provided any such rejection occurs by August 31, 2020.

18. Additionally, in return for the expedited, prompt, payment to KMHJ of the property damage insurance proceeds for Buildings 1 and 3, KMHJ agrees that WGM will continue to have full possessory rights and occupancy rights to Buildings 1 and 3, just as it does at this time, through August 31, 2020, if WGM needs that amount of time to fully remove all of its personal property, product, and equipment from Buildings 1 and 3; provided that WGM continues to secure the

property as is currently being done to prevent trespassers and potential injuries to any person who has no legal right of access to Buildings 1 and 3. If WGM completely vacates Buildings 1 and/or 3 prior to August 31, 2020 and no longer requires possession or access to Buildings 1 and 3, then both WGM's counsel and the Committee's counsel, should each confirm in writing to counsel for KMHJ the date prior to August 31, 2020 that WGM surrenders all rights of use and possession back to KMHJ.

19. This Motion should be approved because it merely provides for KMHJ to receive insurance proceeds for property damages to which it is legally entitled (the full commercial property coverage payment for Buildings 1 and 3 under the Policy), and by granting this Motion Debtor WGM and its estate receive valuable consideration in the form of waiver of administrative rent and waiver of lease rejection damages.

WHEREFORE, KMHJ respectfully requests that this Court (i) enter the accompanying Order granting this Motion, and (ii) grant KMHJ such other and further relief, both at law and equity, which the Court deems just and proper.

DATED: March 26, 2020.

Respectfully Submitted.

JACKSON WALKER, L.L.P.

By: /s/ Bruce J. Ruzinsky
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CERTIFICATE OF SERVICE

The undersigned certifies that on March 26, 2020, a true and correct copy of the foregoing Motion was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system .

/s/ Bruce J. Ruzinsky